

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 153

Introduced By: Aguilar, 35; Kopplin, 3; McDonald, 41;

Read first time: January 8, 2007

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 79-473, Revised
2 Statutes Cumulative Supplement, 2006, as affected by
3 Referendum 2006, No. 422; to change provisions relating to
4 schools in annexed territory as prescribed; and to repeal
5 the original section.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-473, Revised Statutes Cumulative
2 Supplement, 2006, as affected by Referendum 2006, No. 422, is amended
3 to read:

4 79-473. (1) If the territory annexed by a change of
5 boundaries of a city or village which lies within a Class III school
6 district as provided in section 79-407 has been part of a Class IV or
7 Class V school district prior to such annexation, a merger of the
8 annexed territory with the Class III school district shall become
9 effective only if the merger is approved by a majority of the members
10 of the school board of the Class IV or V school district and a
11 majority of the members of the school board of the Class III school
12 district within ninety days after the effective date of the annexation
13 ordinance, except that a merger shall not become effective pursuant to
14 this section if such merger involves a school district that is a
15 member of a learning community.

16 (2) Notwithstanding subsection (1) of this section, when
17 territory which lies within a Class III school district, Class VI
18 school district, or Class I school district which is attached to a
19 Class VI school district or which does not lie within a Class IV or V
20 school district is annexed by a city or village pursuant to section
21 79-407, the affected school board of the city or village school
22 district and the affected school board or boards serving the territory
23 subject to the annexation ordinance shall meet within thirty days
24 after the effective date of the annexation ordinance if neither school
25 district is a member of a learning community and negotiate in good
26 faith as to which school district shall serve the annexed territory
27 and the effective date of any transfer. During the process of

1 negotiation, the affected boards shall consider the following
2 criteria:

3 (a) The educational needs of the students in the affected
4 school districts;

5 (b) The economic impact upon the affected school districts;

6 (c) Any common interests between the annexed or platted area
7 and the affected school districts and the community which has zoning
8 jurisdiction over the area; and

9 (d) Community educational planning.

10 If no agreement has been reached within ninety days after
11 the effective date of the annexation ordinance, the territory shall
12 transfer to the school district of the annexing city or village ten
13 days after the expiration of such ninety-day period unless an affected
14 school district petitions the district court within the ten-day period
15 and obtains an order enjoining the transfer and requiring the boards
16 of the affected school districts to continue negotiation. The court
17 shall issue the order upon a finding that the affected board or boards
18 have not negotiated in good faith based on one or more of the criteria
19 listed in this subsection. The district court shall require no bond or
20 other surety as a condition for any preliminary injunctive relief. If
21 no agreement is reached after such order by the district court and
22 additional negotiations, the annexed territory shall become a part of
23 the school district of the annexing city or village.

24 (3) If, within the boundaries of the annexed territory,
25 there exists a Class VI school, the school building, facilities, and
26 land owned by the school district shall remain a part of the Class VI
27 school district. If the Class VI school district from which territory

1 is being annexed wishes to dispose of such school building,
2 facilities, or land to any individual or political subdivision,
3 including a Class I school district, the question of such disposition
4 shall be placed on the ballot for the next primary or general
5 election. All legal voters of such Class VI school district shall then
6 vote on the question at such election. A simple majority of the votes
7 cast shall resolve the issue.

8 (4) Whenever an application for approval of a final plat or
9 replat is filed for territory which lies within the zoning
10 jurisdiction of a city of the first or second class and does not lie
11 within the boundaries of a Class IV or V school district, the
12 boundaries of a school district that is a member of a learning
13 community, the boundaries of any county in which a city of the
14 metropolitan class is located, or the boundaries of any county that
15 has a contiguous border with a city of the metropolitan class, the
16 affected school board of the school district within the city of the
17 first or second class or its representative and the affected board or
18 boards serving the territory subject to the final plat or replat or
19 their representative shall meet within thirty days after such
20 application and negotiate in good faith as to which school district
21 shall serve the platted or replatted territory and the effective date
22 of any transfer based upon the criteria prescribed in subsection (2)
23 of this section.

24 If no agreement has been reached prior to the approval of
25 the final plat or replat, the territory shall transfer to the school
26 district of the city of the first or second class upon the filing of
27 the final plat unless an affected school district petitions the

1 district court within ten days after approval of the final plat or
2 replat and obtains an order enjoining the transfer and requiring the
3 affected boards to continue negotiation. The court shall issue the
4 order upon a finding that the affected board or boards have not
5 negotiated in good faith based on one or more of the criteria listed
6 in subsection (2) of this section. The district court shall require no
7 bond or other surety as a condition for any preliminary injunctive
8 relief. If no agreement is reached after such order by the district
9 court and additional negotiations, the platted or replatted territory
10 shall become a part of the school district of the city of the first or
11 second class.

12 For purposes of this subsection, plat and replat apply only
13 to (a) vacant land, (b) land under cultivation, or (c) any plat or
14 replat of land involving a substantive change in the size or
15 configuration of any lot or lots.

16 (5) Notwithstanding any other provisions of this section,
17 all negotiated agreements relative to boundaries or to real or
18 personal property of school districts reached by the affected school
19 boards shall be valid and binding, except that such agreements shall
20 not be binding on reorganization plans pursuant to the Learning
21 Community Reorganization Act.

22 (6) If a school district brings an action under this
23 section and is unsuccessful in obtaining a decision ordering further
24 negotiations, the court shall award defendant school district court
25 costs, reasonable attorney's fees, and any other expenses which are
26 directly related to the defense of such action as determined by the
27 court.

1 Sec. 2. Original section 79-473, Revised Statutes Cumulative
2 Supplement, 2006, as affected by Referendum 2006, No. 422, is
3 repealed.